



DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 23-11]

Tiffani D. Shelton, D.O.; Decision and Order

On October 25, 2022, the Drug Enforcement Administration (DEA or Government) issued an Order to Show Cause (OSC) to Tiffani D. Shelton, D.O. (Respondent). OSC, at 1, 3. The OSC proposed the revocation of Respondent's registration¹ because Respondent is "without authority to prescribe, administer, dispense, or otherwise handle controlled substances in the State of Florida—the state in which [she is] registered with DEA." *Id.* at 2.

Respondent requested a hearing;² thereafter, the Government filed and the Administrative Law Judge (hereinafter, ALJ) granted a Motion for Summary Disposition recommending the revocation of Respondent's registration. RD, at 5-6. Respondent did not file exceptions to the RD. Having reviewed the entire record, the Agency adopts and hereby incorporates by reference the entirety of the ALJ's rulings, findings of fact, conclusions of law, and recommended sanction and summarizes and expands upon portions thereof herein.

FINDINGS OF FACT

On July 19, 2022, Respondent entered into a voluntarily agreement to withdraw from the practice of medicine in Florida. RD, at 6; ALJX 6, Exhibit B. According to Florida online records, of which the Agency takes official notice, Respondent's Florida medical license is listed as "VOLUN. WITHDRAW," indicating that "[l]icensee may not practice in Florida while the

¹ Certificate of Registration No. FS5332818 at the registered address of 5017 Glenn Drive, New Port Richey, Florida. *Id.* at 1.

² The Government argued that the Respondent's request for a hearing was untimely; Respondent argued that the OSC was not properly served and, in the alternative, that the request for a hearing was timely. Administrative Law Judge Exhibit (ALJX) 6, at 3-4; ALJX 7. The ALJ determined, among other things, that Respondent was properly served and that there was good cause to accept the request for a hearing as timely filed. Order Granting the Government's Motion for Summary Disposition, and Recommended Rulings, Findings of Fact, Conclusions of Law, and Decision of the Administrative Law Judge (Recommended Decision or RD), at 2-5.

licensee is under a voluntary withdrawal agreement with the department.”³ Florida Department of Health License Verification, <https://mqa-internet.doh.state.fl.us/MQASearchServices/> (last visited date of signature of this Order). Accordingly, the Agency finds that Respondent is not currently licensed to engage in the practice of medicine in Florida, the state in which she is registered with the DEA.

DISCUSSION

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA) “upon a finding that the registrant . . . has had his State license or registration suspended . . . [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.” With respect to a practitioner, the DEA has also long held that the possession of authority to dispense controlled substances under the laws of the state in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner’s registration. *See, e.g., James L. Hooper, M.D.*, 76 FR 71371 (2011), *pet. for rev. denied*, 481 F. App’x 826 (4th Cir. 2012); *Frederick Marsh Blanton, M.D.*, 43 FR 27616, 27617 (1978).⁴

³ Under the Administrative Procedure Act, an agency “may take official notice of facts at any stage in a proceeding – even in the final decision.” United States Department of Justice, Attorney General’s Manual on the Administrative Procedure Act 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). Pursuant to 5 U.S.C. 556(e), “[w]hen an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.” Accordingly, Respondent may dispute the Agency’s finding by filing a properly supported motion for reconsideration of findings of fact within fifteen calendar days of the date of this Order. Any such motion and response shall be filed and served by e-mail to the other party and to Office of the Administrator, Drug Enforcement Administration at dea.addo.attorneys@dea.gov.

⁴ This rule derives from the text of two provisions of the CSA. First, Congress defined the term “practitioner” to mean “a physician . . . or other person licensed, registered, or otherwise permitted, by . . . the jurisdiction in which he practices . . . , to distribute, dispense, . . . [or] administer . . . a controlled substance in the course of professional practice.” 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner’s registration, Congress directed that “[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.” 21 U.S.C. 823(g)(1) (this section, formerly section 823(f), was redesignated as part of the Medical Marijuana and Cannabidiol Research Expansion Act, Pub. L. No. 117-215, 136 Stat. 2257 (2022)). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the CSA, the DEA has held repeatedly that revocation of a practitioner’s registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the state in which he practices. *See, e.g., James L. Hooper*, 76 FR at 71,371-72; *Sheran Arden Yeates, M.D.*, 71 FR 39130, 39131 (2006); *Dominick A. Ricci, M.D.*, 58 FR 51104, 51105 (1993); *Bobby Watts, M.D.*, 53 FR 11,919, 11,920 (1988); *Frederick Marsh Blanton*, 43 FR at 27617.

According to Florida statute, “A practitioner, in good faith and in the course of his or her professional practice only, may prescribe, administer, dispense, mix, or otherwise prepare a controlled substance.” Fla. Stat. section 893.05(1)(a) (2022). Further, a “practitioner” as defined by Florida statute includes “a physician licensed under chapter 458.”⁵ *Id.* at section 893.02(23).

Here, the undisputed evidence in the record is that Respondent currently lacks authority to practice medicine in Florida. RD, at 8. As discussed above, a person must be a licensed practitioner to dispense a controlled substance in Florida. *Id.* Thus, because Respondent lacks authority to practice medicine in Florida and, therefore, is not authorized to handle controlled substances in Florida, Respondent is not eligible to maintain a DEA registration. *Id.* Accordingly, the Agency will order that Respondent’s DEA registration be revoked.

ORDER

Pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 824(a), I hereby revoke DEA Certificate of Registration No. FS5332818 issued to Tiffani D. Shelton. D.O. Further, pursuant to 28 CFR 0.100(b) and the authority vested in me by 21 U.S.C. 823(g)(1), I hereby deny any pending applications of Tiffani D. Shelton, D.O., to renew or modify this registration, as well as any other pending application of Tiffani D. Shelton, D.O., for additional registration in Florida. This Order is effective **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

SIGNING AUTHORITY

This document of the Drug Enforcement Administration was signed on April 4, 2023, by Administrator Anne Milgram. That document with the original signature and date is maintained by DEA. For administrative purposes only, and in compliance with requirements of the Office of the Federal Register, the undersigned DEA Federal Register Liaison Officer has been authorized to sign and submit the document in electronic format for publication, as an official document of

⁵ Chapter 458 regulates medical practice and applies to Respondent; it defines a “physician” as a person who is licensed to practice medicine in this state.” *Id.* at section 458.305(4).

DEA. This administrative process in no way alters the legal effect of this document upon publication in the Federal Register.

Heather Achbach,

Federal Register Liaison Officer,

Drug Enforcement Administration.

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